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SUBJECT: UNGA: UNSC REFORM: INTERGOVERNMENTAL NEGOTIATIONS  
ON THE RELATIONSHIP BETWEEN THE COUNCIL AND THE GENERAL  
ASSEMBLY

REF: A. USUN NEW YORK 388  
[1](#)B. USUN NEW YORK 345  
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[1](#)1. (SBU) Summary: The informal plenary of the General Assembly met on April 20 for intergovernmental negotiations on Security Council expansion focusing on the relationship between the Security Council (SC) and the General Assembly (GA). This meeting, during which 52 delegations spoke, marked the last session of the first round of intergovernmental negotiations. Delegation statements either focused on the SC and GA as equal principal organs with the SC accountable to the membership or interpreted the Charter to imply that the Council is subordinate to the GA as it is the organ with universal representation. There were calls for greater coordination between the two organs, especially between their Presidents, and for an end to SC encroachment on the GA and other bodies' jurisdiction. The U.S. statement emphasized the fundamental constitutional nature of the issue and that Article 7 of the UN Charter is clear that the SC and the GA are co-equal principal organs and that the GA may only make recommendations to the Council. As during the last negotiation, a large number of delegations commented on Council working methods as a way to improve the Council's relationship with the membership. Delegations also referred to the Council's annual report to the GA, calling for a more substantive and analytical report while others recognized the progress made in the 2008 report.

[1](#)2. (SBU Summary continued: Uniting for Consensus (UFC) bloc members Colombia and Italy put forward a new proposal at the end of the session focused on all five issues, including additional longer-term renewable seats and additional two-year non-renewable seats. The Group of Four (G4) and its supporters continued their call for the Chair to draft a composite paper before the next round and G4 members Japan and Germany suggested specific categories/clusters for focus during the next round. The Chair confirmed he would distribute another letter well before the second round commences. He told Ambassador Wolff privately that he would use the second round to try to narrow the debate and focus it on issues where progress can be achieved -- size, categories of membership, and regional representation in an expanded Council and expressed appreciation to the United States for helping identify issues where deadlock could persist. He also said he would announce that a third round would be held

to deflect potential negative pressure in the second round.  
End summary.

13. (SBU) Comment: Russian and U.S. statements were the most firm of the P-5 statements in delineating the relationship between the SC and the GA; the Chinese, French and UK statements were less so. The latter simply highlighted the Council's primary responsibility for maintaining international peace and security while the General Assembly has universal representation. The tabling of a new proposal by UFC members Colombia and Italy that reflects the intermediate option is a significant demonstration of some flexibility by those states, as was the German Perm Rep's statement earlier in the round voicing interest for longer-term seats of 12-15 years under the intermediate option. Japan and Brazil also appear to be showing some flexibility towards an intermediate option, therefore leaving only India and the African Group as the main stalwarts insisting on additional permanent seats with veto. With Indian Perm Rep Sen's departure, we will have to wait for his successor's arrival in order to see if India decides to show any flexibility or maintain its present course. India could be the linchpin in determining how quickly or slowly this process moves forward. If India continues to insist on additional permanent seats, then negotiations will move slowly because the African Group will not be compelled to adjust the Ezulwini Consensus; however if India shows some interest in the intermediate option, negotiations could quickly accelerate. End comment.

14. (SBU) The final meeting of the first round of intergovernmental negotiations on Security Council expansion

took place April 20 on the fifth and last of the five key issues -- "the relationship between the Council and the General Assembly (GA)." 52 delegations spoke at least once during the one-day discussion of the informal plenary and only one state (South Africa) took the floor a second time during the interactive portion at the end of the session. Afghan Perm Rep and Chairman of the Intergovernmental Negotiations Zahir Tanin circulated a letter to the membership on April 16, as he did before the four previous issue-based negotiations (see reftels). (Note: USUN e-mailed a copy of the letter to IO/UNP. End note.)

Equal principal organs v.  
Council subordinate to Assembly  
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15. (SBU) Unlike previous meetings, there was not a fundamental split between the Group of Four (G4) and Uniting for Consensus (UFC) bloc positions on the main topic. Rather, the split was between those countries that recognize the Council as a principal organ under the UN Charter and accountable only to the membership and those countries, generally more developing states, who interpret the Charter to imply the Council should take a more subordinate position with respect to the GA. The Philippines Perm Rep said he interpreted Article 24 of the UN Charter to mean that the Council is "for all legal intents and purposes, an agent of the General Assembly as it merely exercises a delegated authority or a part of the sovereignty of each Member State..." He said, "We should never allow the principal -- the General Assembly -- to be held hostage by the delegate or agent."

16. (SBU) The Philippines Perm Rep suggested several proposals for Charter amendments to ensure the dominance of the Assembly over the Council. He said the GA should be given full power to appoint the Secretary-General and not just appoint one "upon the recommendation of the Security Council," as Article 97 currently states. The Nicaraguan Perm Rep later seconded the Filipino proposal, saying the process by which the Secretary-General is elected should be considered. The Russian Perm Rep responded that Russia favors the current wording of Article 97. The Philippines

Perm Rep took issue with Council members having two votes (one in the GA and one in the Security Council) for elections of judges to the International Court of Justice. Both the Philippines Perm Rep and the Nicaraguan Perm Rep urged that the GA should be able to override a veto exercised in the Security Council (SC) by a permanent member. The Sierra Leone Perm Rep, speaking on behalf of the African Group, said that when the "Security Council cannot and will not act, there is need to strike a compromise by devising ways and means of empowering the General Assembly to promote the aims of the Charter."

17. (SBU) The Egyptian Perm Rep commented that there is a direct link between Council reform and the "revitalization of the General Assembly," another GA agenda topic. He said that when the GA is active and revitalized it will be able to act.

He noted the links between the UN Department of Public Affairs and the SC and that those links are missing with the GA. A number of states in the second category suggested that the Council's mandate has become too expansive and has encroached on other bodies' jurisdiction. The Iranian representative, for example, cited technical bodies, like the IAEA, as the victims of the Council's increasing encroachment. He called for that encroachment to be "checked and reversed."

18. (SBU) The Singapore Perm Rep said the "principle of accountability is the key that underpins the symbiotic relationship between the two principal organs." The Council decisions are binding on Member states and Member States share the "attendant burdens" of increases in the budgets of peacekeeping and special political missions which are mandated by the Council. He said that since the General Assembly elects the ten non-permanent members of the Council, it provides the legitimacy that ensures international compliance with Council decisions, so each body needs the

other.

Calls for greater coordination  
between both bodies

19. (SBU) The Russian Perm Rep in his remarks urged the membership to not engage in a "tug of war" between the two principal organs. Instead, he noted the current challenges of peacemaking and peacebuilding and suggested that the GA could make significant contributions on those subjects. The French Deputy Perm Rep highlighted the strengthening of Council and Assembly interaction through the convening of the Peacebuilding Commission and the Counterterrorism Committee. The Indonesian Perm Rep said that more interaction was actually needed between the GA and the Security Council, as founders of the Peacebuilding Commission. A number of states, including the African Group and Liechtenstein, called for regular meetings between the President of the Security Council and the President of the General Assembly (PGA) in order to increase information sharing across the two organs and to consult on work plans.

U.S. statement: relationship  
is a fundamental  
constitutional issue

10. (SBU) Given that a number of states were interpreting the Charter as providing for a subordinate role for the Council vis a vis the Assembly, USUN judged it necessary to speak. In the U.S. remarks, Ambassador Wolff stressed that the topic of the session involves a fundamental constitutional issue for the United Nations. He said Article 7 of the UN Charter is clear that the Security Council and the General Assembly are co-equal principal organs of the United Nations, a fact reaffirmed in an early Advisory Opinion of the International Court of Justice which states that both bodies are principal organs of the United Nations and the Charter does not place the Council in a subordinate

position. He underscored that Article 24 of the Charter states that the Council acts on behalf of the members of the United Nations, not on behalf of the General Assembly, and Articles 10 and 11 also make clear that the GA may only make recommendations to the Council.

¶11. (SBU) Ambassador Wolff referred to other delegations' comments during the meeting and in previous sessions that the Council's annual report to the GA somehow suggests a subordinate reporting relationship and said this is an erroneous conclusion since the purpose of the report is to bring matters to the attention of the Assembly for its consideration and to facilitate the exchange of information and enhance cooperation among two principal organs. He stressed that, given that the topic is a fundamental constitutional issue, belaboring discussion is unlikely to be productive and will only serve to delay progress towards the main objective of most members, namely, Council expansion.

Focus on working methods  
to enhance relationship  
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¶12. (SBU) A number of countries highlighted in their interventions that there is a link between Council working methods, which improve the membership's access to the Council, and relations between the Council and the General Assembly. As a result, some interventions were very similar to those given during the April 7 and 8 meetings on working methods of the Security Council (ref A) and continued calls, for example, for more open debate and more consultations with troop and financial contributors.

Council's annual  
report to the GA  
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¶13. (SBU) A number of states focused on Articles 15 and 24 of the Charter which discuss the Council's annual report to the Assembly and called for more substantive and analytical

reports. Portugal, France, and a few other states did recognize that there had been positive steps, especially by July 2008 Council President Vietnam who prepared the 62nd session's annual report, to improve the report's substance. The Indonesian Perm Rep urged that the report include a section on the status of the implementation of Council decisions. The South African representative said that the Council is "duty-bound to provide analytical reports, explain the use of the veto, and why it might not have taken action."

The Mexican Perm Rep suggested looking at the ICJ report to the General Assembly which has useful analysis as a possible model for further revisions to the Council's annual report. The Singapore Perm Rep, questioning whether it was possible to truly have an analytical annual report from the Council, advocated for a "free-flowing annual debate for Member States to take stock and to share feedback on the role of the Council over the past year which could be jointly chaired by the Security Council President and the President of the General Assembly (PGA).

Colombia/Italy put forward new  
intermediate proposal  
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¶14. (SBU) At the end of the session, the Colombian Perm Rep introduced a new Colombian-Italian reform proposal that covers the five key issues. The Italian Perm Rep characterized the proposal as based on comprehensive reform, equality among all states, accountability, and unity of the organization. While the proposal states that the exact number of seats will depend on the total size of the expansion, it suggests approximately five additional longer-term seats distributed as follows: Africa, Asia, Asia/Africa (on a rotational basis), GRULAC, and WEOG/EEG (on a rotational basis). It suggests two possible alternatives

for these longer-term seats: (1) three to five year terms without the possibility of immediate re-election or (2) two-year terms with the possibility of up to two immediate re-elections but afterwards a member state would have to take a break equivalent to the number of consecutive years served on the Council. The proposal also suggests approximately six additional two-year, non-renewable seats distributed as follows: small states (population under 1 million); medium-size states (population between one and ten million); Africa, Asia, GRULAC, and EEG.

¶15. (SBU) The proposal suggests continuing the present ratio of 3/5 or 60 percent for adoption of substantive decisions in the enlarged Council. It also suggests either the abolition of the veto or the limitation of the scope of the veto to only Chapter VII matters. The proposal suggests a number of working method and procedural reforms, none of which would require a Charter amendment. It also presses for enhanced accountability of the Council to the general membership, the submission of more substantive and analytical reports and special reports by the Council to the General Assembly, and urges a strengthening of the relationship between the Council and the other UN principal organs. Lastly, the proposal calls for a review after 10-12 years or 15-16 years, depending upon the term of the seats, and a comprehensive reassessment, including the composition and working methods of the Council. Since the proposal was only shared with the membership at the end of the session, no delegations commented on it, aside from the South African representative who noted that it was "at odds with the African position."

Calls for a composite  
paper before next round  
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¶16. (SBU) As they have at previous meetings, a number of G4 countries and their supporters from the African Group and elsewhere called on the Chair to draft a composite paper before the next round of negotiations. The Japanese Perm Rep suggested an overview paper with a summary and list of viable options based on member states' suggestions. He said the paper should concentrate on categories of membership, the veto, regional representation, and the size of an enlarged Council. The German Perm Rep said a composite paper would

help narrow down the options and suggested two clusters of focus: (1) categories of membership, size of an enlargement, and regional representation and (2) the veto, working methods, and the relationship between the Council and the General Assembly. (Comment: The second cluster could presumably be ignored if there continues to be widespread disagreement on it. End comment.)

Chair's plans for the second round  
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¶17. (SBU) During the April 20 meeting, Ambassador Tanin did not share with the membership his plans for the next round of intergovernmental negotiations, aside from noting that he would be sending out another letter well before the second round commences and that the "second act is always better." A number of countries highlighted, as the Portuguese Perm Rep did, that the first round provided the membership with "an idea of what won't fly" in future negotiations.

¶18. (SBU) In an April 22 bilateral meeting, Ambassador Tanin told Ambassador Wolff that he was pleased that the U.S. interventions during the first round had highlighted the issues which were irreconcilable and which could only serve to block progress if the membership insisted on dwelling upon them. He said it was important for the membership to hear this message. Tanin said he would use the second round to narrow the debate and focus the membership on those issues where progress can be achieved -- size, categories of membership, and regional representation in an expanded Council. He also said there are lingering questions that

remain unaddressed that the membership should address, such as the role of a review conference. A third round could then be used to focus on how to move the process forward into the 64th General Assembly session. Ambassador Wolff agreed that announcing a third round could help deflect possible negative action during the second round.

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